

## Internal Revenue Service, Treasury

## § 46.4371-2

### Subpart B—Tax on Policies Issued by Foreign Insurers

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AUTHORITY: 26 U.S.C. 7805.

SOURCE: T.D. 8497, 25 FR 6461, May 6, 1960, unless otherwise noted.

## Subpart A—Introduction

### § 46.0-1 Introduction.

The regulations in this part 46 relate to the taxes on policies issued by foreign insurers imposed by chapter 34 of the Internal Revenue Code and the tax on the issuer of registration-required obligations not issued in registered form imposed by chapter 39 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by chapters 34 and 39.

[T.D. 8442, 57 FR 48185, Oct. 22, 1992]

### § 46.0-2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indicated:

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68A Stat.), entitled “An Act to revise the internal revenue laws of the United States”, as amended.

(c) District director means the district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(d) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

### Subpart B—Tax on Policies Issued by Foreign Insurers

#### § 46.4371-1 Applicability of subpart.

The provisions of this subpart apply only to premiums paid on or after January 1, 1966. See Subpart H, Part 47 of this chapter for provisions relating to premiums paid or charged before January 1, 1966. If any portion of the tax imposed by section 4371 was paid on the basis of the premium charged before January 1, 1966, in accordance with the provisions of § 47.4371-2 of this chapter (documentary stamp tax), then, to the extent that such portion was paid by stamp, no further tax is due under the provisions of this subpart.

#### § 46.4371-2 Imposition of tax on policies issued by foreign insurers; scope of tax.

(a) *Certain insurance policies, and indemnity, fidelity, or surety bonds.* Section 4371(1) imposes a tax upon each policy of insurance (other than those referred to in paragraph (b) of this section), upon each indemnity, fidelity, or surety bond, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an obligation in the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed, if issued:

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer (unless the policy or other instrument is signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which the insurer is authorized to do business); and either

(2) To or for, or in the name of, a domestic corporation, domestic partnership, or an individual resident of the United States, against or with respect to hazards, risks, losses, or liabilities wholly or partly within the United States; or

(3) To or for, or in the name of, a foreign corporation, foreign partnership,

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or nonresident individual, engaged in a trade or business within the United States with respect to hazards, risks, or liabilities wholly within the United States.

For definition of the term “indemnity bond,” see section 4372(c).

(b) *Life insurance, sickness, and accident policies, and annuity contracts.* Unless the insurer is subject to tax under section 819, section 4371(2) imposes a tax upon each policy of insurance or annuity contract, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an annuity contract is made, continued, or renewed, if issued:

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer (unless the policy or other instrument is signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which such insurer is authorized to do business); and

(2) To any person with respect to the life or hazards to the person of a citizen or resident of the United States.

(c) *Reinsurance.* Section 4371(3) imposes a tax upon each policy of reinsurance, certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of reinsurance is made, continued, or renewed, if issued:

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as reinsurer (unless the policy or other instrument is signed or countersigned by an officer or agent of the reinsurer in a State, Territory, or the District of Columbia in which such reinsurer is authorized to do business); and

(2) To any person against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts of the type described in section 4371 (1) or (2).

(d) *Exempt indemnity bonds.* The tax imposed by section 4371 does not apply to any indemnity bond described in section 4373(2).

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#### § 46.4371-3 Rate and computation of tax.

(a) *Rate of tax.* (1) The tax under section 4371(1) is imposed at the rate of 4 cents on each dollar, or fractional part thereof, of the premium payment.

(2) The tax under section 4371 (2) and (3) is imposed at the rate of 1 cent on each dollar, or fractional part thereof, of the premium payment.

(b) *Meaning of premium payment.* For purposes of this subpart, the term “premium payment” means the consideration paid for assuming and carrying the risk or obligation, and includes any additional assessment or charge paid under the contract, whether payable in one sum or installments.

#### § 46.4371-4 Records required with respect to foreign insurance policies.

(a) Each person required under the provisions of § 46.4374-1 to remit the tax imposed by section 4371 shall keep or cause to be kept accurate records of all policies or other instruments subject to such tax upon which premiums have been paid. Such records must identify each such policy or other instrument in such a manner as to clearly establish the following: (1) The gross premium paid; (2) whether such policy or other instrument is (i) a policy of casualty insurance or an indemnity bond subject to tax under section 4371(1), (ii) a policy of life, sickness, or accident insurance or an annuity contract subject to tax under section 4371(2), or (iii) a policy of reinsurance subject to tax under section 4371(3); (3) the identity of the insured (as defined in section 4372(d)); (4) the identity of the foreign insurer or reinsurer (as defined in section 4372(a)); and (5) the total premium charged and, if the premium is to be paid in installments, the amount and anniversary date of each such installment.

(b) The records required under the provisions of this section must be kept on file at the place of business or at some other convenient location, for a period of at least 3 years from the date any part of the tax became due or the date any part of the tax is paid, whichever is later, in such manner as to be readily accessible to authorized internal revenue officers or employees. The person having control or possession of